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Attorneys for Plaintiff
WEST VIEW RESEARCH, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

WEST VIEW RESEARCH, LLC, a
California corporation,

Plaintiff,

v.

AUDI AG, a German corporation;
AUDI OF AMERICA, LLC, a
Delaware corporation;
VOLKSWAGEN AG, a German
corporation; and VOLKSWAGEN
GROUP OF AMERICA, INC. d/b/a
AUDI OF AMERICA, INC., a New
Jersey corporation,

Defendants.

CASE NO. '14CV2668 BAS JLB

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

This is an action for patent infringement in which Plaintiff West View Research, LLC (“West View Research” or “Plaintiff”) makes the following allegations against Defendants AUDI AG, AUDI OF AMERICA, LLC, VOLKSWAGEN AG, and VOLKSWAGEN GROUP OF AMERICA, INC. d/b/a AUDI OF AMERICA, INC. (collectively “AUDI/VW” or “Defendants”) as follows:

THE PARTIES

1
2 1. Plaintiff West View Research is a limited liability company organized
3 under the laws of the State of California with a principal place of business at 16644
4 West Bernardo Drive, Suite 201-A, San Diego, California 92127.

5 2. Upon information and belief, Defendant AUDI AG is a corporation
6 organized under the laws of Germany, with its principal place of business at
7 Ettinger Strasse, D-85045, Ingolstadt, Germany.

8 3. Upon information and belief, Defendant AUDI OF AMERICA, LLC is
9 a corporation organized under the laws of Delaware, with its principal place of
10 business at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171 and a
11 registered agent at Corporation Service Company, 2711 Centerville Road, Suite
12 400, Wilmington, DE 19808.

13 4. Upon information and belief, Defendant VOLKSWAGEN AG is a
14 corporation organized under the laws of Germany, with its principal place of
15 business at Werk Wolfsburg, 38436 Wolfsburg, Germany.

16 5. Upon information and belief, Defendant VOLKSWAGEN GROUP
17 OF AMERICA, INC. d/b/a AUDI OF AMERICA, INC. is a corporation organized
18 under the laws of New Jersey, with its principal place of business at 3800 Hamlin
19 Road, Auburn Hills, Michigan 48326 and a registered agent at CSC – Lawyers
20 Incorporating Service, 601 Abbot Road, East Lansing, Michigan 48823.

21 **JURISDICTION AND VENUE**

22 6. This is an action for patent infringement arising under the patent laws
23 of the United States, 35 U.S.C. §1, *et seq.*, including 35 U.S.C. § 271. This Court
24 has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

25 7. This Court has personal jurisdiction over Defendants at least because
26 Defendants are present within or have ongoing and systematic contacts with the
27 United States, the State of California, and the Southern District of California.
28 Defendants have has purposefully and regularly availed themselves of the

1 privileges of conducting business in the State of California and in the Southern
2 District of California. Plaintiff's causes of action arise directly from Defendants'
3 business contacts and other activities in the State of California and in the Southern
4 District of California. Defendants have committed acts of patent infringement in
5 this District, and have harmed and continue to harm West View Research in this
6 District, by, among other things, using, selling, offering for sale, and/or importing
7 infringing products and/or services into this District.

8 **BACKGROUND**

9 8. West View Research owns all right, title and interest in U.S. Patent
10 No. 8,719,038 (the "'038 patent"), U.S. Patent No. 8,719,037 (the "'037 patent"),
11 U.S. Patent No. 8,682,673 (the "'673 patent"), U.S. Patent No. 8,296,146 (the "'146
12 patent") and U.S. Patent No. 8,065,156 (the "'156 patent") (collectively, the
13 "Patents-in-Suit").

14 9. Each of the Patents-in-Suit are valid and enforceable.

15 10. West View Research is in compliance with the marking requirements
16 under 35 U.S.C. § 287 in that it has no duty to mark or to give notice in lieu thereof
17 because it has no products to mark.

18 11. The '038 patent, entitled "Computerized Information and Display
19 Apparatus," was duly and legally issued by the United States Patent and Trademark
20 Office on May 6, 2014, after a full and fair examination. A copy of the '038 patent
21 is attached hereto as Exhibit A.

22 12. The '037 patent, entitled "Transport Apparatus with Computerized
23 Information and Display Apparatus," was duly and legally issued by the United
24 States Patent and Trademark Office on May 6, 2014, after a full and fair
25 examination. A copy of the '037 patent is attached hereto as Exhibit B.

26 13. The '673 patent, entitled "Computerized Information and Display
27 Apparatus," was duly and legally issued by the United States Patent and Trademark
28 Office on March 25, 2014, after a full and fair examination. A copy of the '673

1 patent is attached hereto as Exhibit C.

2 14. The '146 patent, entitled "Computerized Information Presentation
3 Apparatus," was duly and legally issued by the United States Patent and Trademark
4 Office on October 23, 2012, after a full and fair examination. A copy of the '146
5 patent is attached hereto as Exhibit D.

6 15. The '156 patent, entitled "Adaptive Information Presentation
7 Apparatus and Methods," was duly and legally issued by the United States Patent
8 and Trademark Office on November 22, 2011, after a full and fair examination. A
9 copy of the '156 patent is attached hereto as Exhibit E.

10 **COUNT I**

11 **INFRINGEMENT OF THE '038 PATENT**

12 16. West View Research incorporates paragraphs 1 through 15 by
13 reference as if fully stated herein.

14 17. Defendants have been and are directly infringing literally and/or under
15 the doctrine of equivalents, at least claims 1, 2, 3, 6, 7, 8, 9, 10, 11, 13, 15, 16 and
16 18 of the '038 patent.

17 18. Defendants have directly infringed, and continue to directly infringe,
18 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
19 271(a), by making, using, selling, offering for sale, and/or importing in or into the
20 United States, without authority products that infringe at least claims 1, 2, 3, 6, 7, 8,
21 9, 10, 11, 13, 15, 16 and 18 of the '038 patent, including but not limited to 2013 and
22 later Audi A3, A4, A5, A6, A7, A8, Q5, Q7 with "MMI", including but not limited
23 to those with "Connect", sold or offered for sale on or after May 6, 2014.

24 19. West View Research has no adequate remedy at law against these acts
25 of patent infringement. Defendants' actions complained of herein are causing
26 irreparable harm and damages to West View Research and will continue to do so
27 unless and until Defendants are permanently enjoined by the Court.

28 20. As a direct and proximate result of the acts of patent infringement by

1 Defendants, West View Research has been damaged and continues to be damaged
2 in an amount not presently known.

3 21. West View Research has incurred and will incur attorneys' fees, costs,
4 and expenses in the prosecution of this action. The circumstances of this dispute
5 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
6 Research is entitled to recover its reasonable and necessary fees and expenses.

7 **COUNT II**

8 **INFRINGEMENT OF THE '037 PATENT**

9 22. West View Research incorporates paragraphs 1 through 21 by
10 reference as if fully stated herein.

11 23. Defendants have been and are directly infringing literally and/or under
12 the doctrine of equivalents, at least claims 22, 24, 28, 32, 35, 36, 37, 40, 41, 42, 43,
13 44, 45, 48, 51, 54, 55, 56, 57, 58, 59, 63, 64, 67, 68, 69 and 70 of the '037 patent.

14 24. Defendants have directly infringed, and continue to directly infringe,
15 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
16 271(a), by making, using, selling, offering for sale, and/or importing in or into the
17 United States, without authority products that infringe at least claims 22, 24, 28, 32,
18 35, 36, 37, 40, 41, 42, 43, 44, 45, 48, 51, 54, 55, 56, 57, 58, 59, 63, 64, 67, 68, 69
19 and 70 of the '037 patent, including but not limited to 2013 and later Audi A3, A4,
20 A5, A6, A7, A8, Q5, Q7 with "MMI", including but not limited to those with
21 "Connect", sold on or after May 6, 2014.

22 25. West View Research has no adequate remedy at law against these acts
23 of patent infringement. Defendants' actions complained of herein are causing
24 irreparable harm and damages to West View Research and will continue to do so
25 unless and until Defendants are permanently enjoined by the Court.

26 26. As a direct and proximate result of the acts of patent infringement by
27 Defendants, West View Research has been damaged and continues to be damaged
28 in an amount not presently known.

1 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
2 Research is entitled to recover its reasonable and necessary fees and expenses.

3 **COUNT IV**
4 **FOR INFRINGEMENT OF THE '146 PATENT**

5 34. West View Research incorporates paragraphs 1 through 33 by
6 reference as if fully stated herein.

7 35. Defendants have been and are directly infringing literally and/or under
8 the doctrine of equivalents, at least claims 1, 2, 3, 4, 5, 8, 10, 11, 12, 13, 14, 27, 28,
9 29, 30, 31, 32, 33 and 34 of the '146 patent.

10 36. Defendants have directly infringed, and continue to directly infringe,
11 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
12 271(a), by making, using, selling, offering for sale, and/or importing in or into the
13 United States, without authority products that infringe at least claims 1, 2, 3, 4, 5, 8,
14 10, 11, 12, 13, 14, 27, 28, 29, 30, 31, 32, 33 and 34 of the '146 patent, including but
15 not limited to 2013 and later Audi A3, A4, A5, A6, A7, A8, Q5, Q7 with "MMI",
16 including but not limited to those with "Connect", sold or offered for sale on or
17 after October 23, 2012.

18 37. West View Research has no adequate remedy at law against these acts
19 of patent infringement. Defendants' actions complained of herein are causing
20 irreparable harm and damages to West View Research and will continue to do so
21 unless and until Defendants are permanently enjoined by the Court.

22 38. As a direct and proximate result of the acts of patent infringement by
23 Defendants, West View Research has been damaged and continues to be damaged
24 in an amount not presently known.

25 39. West View Research has incurred and will incur attorneys' fees, costs,
26 and expenses in the prosecution of this action. The circumstances of this dispute
27 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
28 Research is entitled to recover its reasonable and necessary fees and expenses.

COUNT V
FOR INFRINGEMENT OF THE '156 PATENT

40. West View Research incorporates paragraphs 1 through 39 by reference as if fully stated herein.

41. Defendants have been and are directly infringing literally and/or under the doctrine of equivalents, or indirectly infringing by inducement, at least claims 10, 15, 18, 20, 21, 22, 23 and 24 of the '156 patent.

42. Defendants have directly infringed, and continue to directly infringe, either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by making, using, selling, offering for sale, and/or importing in or into the United States, without authority products that infringe at least claims 10, 15, 18, 20, 21, 22, 23 and 24 of the '156 patent, including but not limited to 2013 and later Audi A3, A4, A5, A6, A7, A8, Q5, Q7 with "MMI", including but not limited to those with "Connect", sold or offered for sale on or after November 22, 2011.

43. Third parties, including Defendant's customers and sales personnel, have directly infringed, and continue to directly infringe, either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by using, selling, and or offering for sale in the United States, and/or importing into the United States, products supplied by Defendant that infringe at least claims 10, 15, 18, 20, 21, 22, 23 and 24 of the '156 patent, including but not limited to 2013 and later Audi A3, A4, A5, A6, A7, A8, Q5, Q7 with "MMI", including but not limited to those with "Connect", sold or offered for sale on or after November 22, 2011.

44. Upon information and belief, based on the information presently available to West View Research absent discovery, in addition to and/or in the alternative to direct infringement, West View Research contends that Defendant has, since receiving notice of the filing of this Complaint, induced infringement and continues to induce infringement of at least claims 10, 15, 18, 20, 21, 22, 23 and 24 of the '156 patent under 35 U.S.C. § 271(b). The filing and service of the

1 Complaint in this action satisfies the knowledge requirement for induced
2 infringement. Defendant has, since receiving notice of the filing of this Complaint,
3 actively, knowingly, and intentionally induced, and continues to actively,
4 knowingly, and intentionally induce, infringement of the '156 patent by making,
5 using, importing, and selling or otherwise supplying products including but not
6 limited to 2013 and later Audi A3, A4, A5, A6, A7, A8, Q5, Q7 with "MMI",
7 including but not limited to those with "Connect", sold or offered for sale on or
8 after November 22, 2011 to third parties (e.g., consumers or Defendant's sales
9 personnel), with the knowledge and specific intent that such third parties will use,
10 sell, offer for sale, and/or import, products supplied by Defendant to infringe the
11 '156 patent; and with the knowledge and specific intent to encourage and facilitate
12 the infringement through the dissemination of the products and/or the creation and
13 dissemination of promotional and marketing materials, supporting materials,
14 instructions, user manuals, training manuals or videos, product manuals, technical
15 manuals and/or technical assistance related to such products which actively direct,
16 encourage and/or assist the infringement of the '156 patent.

17 45. West View Research has no adequate remedy at law against these acts
18 of patent infringement. Defendants' actions complained of herein are causing
19 irreparable harm and damages to West View Research and will continue to do so
20 unless and until Defendants are permanently enjoined by the Court.

21 46. As a direct and proximate result of the acts of patent infringement by
22 Defendants, West View Research has been damaged and continues to be damaged
23 in an amount not presently known.

24 47. West View Research has incurred and will incur attorneys' fees, costs,
25 and expenses in the prosecution of this action. The circumstances of this dispute
26 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
27 Research is entitled to recover its reasonable and necessary fees and expenses.
28

PRAYER FOR RELIEF

West View Research respectfully requests that judgment be entered in its favor and against Defendants, and that the Court award the following relief to West View Research:

A. A judgment in favor of West View Research that Defendants have infringed, directly and/or indirectly, the Patents-in-Suit;

B. A permanent injunction against Defendants, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the Patents-in-Suit, or such other equitable relief the Court determines is warranted;

C. A judgment and order that Defendants account for and pay all damages necessary to adequately compensate West View Research for infringement of the Patents-in-Suit, but in no event less than a reasonable royalty;

D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding West View Research its reasonable attorneys' fees against Defendants;

E. A judgment and order requiring Defendants to provide an accounting and to pay supplemental damages to West View Research, including without limitation, pre-judgment and post-judgment interest; and

F. Any and all other relief to which West View Research may be entitled.

JURY DEMAND

West View Research hereby respectfully demands trial by jury of all issues so triable.

Dated: November 10, 2014

Respectfully submitted,

GAZDZINSKI & ASSOCIATES, P.C.

/s/ Adam Garson

ADAM GARSON (Bar No. 240440)
JOSH EMORY (Bar No. 247398)

Attorneys for Plaintiff
West View Research, LLC